

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 3-4, 6-7, 11, 13, 53-66, 105, and 114-115 are canceled. Claims 15-52, 67-104, and 106-108 were withdrawn by the Examiner. Claims 1-2, 5, 8-10, 12, 14, 109-114, and 116-123 remain in this application and, as amended herein, are submitted for the Examiner's reconsideration.

In the Office Action, claims 1-2, 5-10, 12, 14, and 109-113, and 116-123 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pare (U.S. Patent No. 5,838,812) in view of Dulude (U.S. Patent No. 6,310,966) and Kawan (U.S. Patent No. 5,796,833) and either Johnson (U.S. Patent No. 5,598,474), Gerety (U.S. Patent No. 6,560,741), or Shinn (U.S. Patent No. 6,655,585). Claims 6-7 were canceled in the Amendment Under 37 CFR 1.116 dated February 6, 2006. Applicants submit that the remaining claims are patentably distinguishable over the cited references.

To carry out a secure transaction over a network, present systems and methods require the user to remember and enter an identification value, such as a user ID or a PIN, which is used only for such transactions. Alternatively, such present systems and methods do not allow the user to enter any identification value and instead require the user to remember to carry a card, such as a smart card, that must be read by the system to permit the transaction to be carried out. Thus, the user must either remember a value that is not used for other types of transactions on other systems or the user must remember to carry a physical card on their person.

The present invention addresses this problem by acquiring, at a communication device, a credit card number associated with the person which is the **sole financial information** acquired to complete the transaction and which is acquired without reading out the credit card number from a

storage area of a card associated with the credit card number.

Claim 1, for example, defines a method for effecting a transaction between a person and a provider over a network which includes:

acquiring, at said communication device, a credit card number associated with said person and personal information pertaining to said person, said credit card number being the **sole financial information** acquired to complete said transaction and being acquired without reading out the credit card number from a storage area of a card associated with the credit card number[.] (Emphasis added.)

Applicants submit that the Examiner has failed to establish *prima facie* obviousness because, e.g., none of the cited references discloses or suggests acquiring a credit card number associated with the person which is the sole financial information acquired to complete a transaction. Also, none of the cited references discloses or suggests acquiring such a credit card number without reading out the credit card number from a storage area of a card associated with the credit card number.

Specifically, Pare requires a buyer to provide a PIN, a biometric sample, a buyer financial account, and a buyer-assigned account index code associated with a financial account to enable the buyer to access and debit the buyer's account. (See, e.g., col.6 ll.3-9.) Pare thus requires the buyer to remember a PIN and an account index code that are used only by Pare's system and requires the buyer to provide both a financial account and an index code as the financial information. Pare does not disclose or suggest the above-cited limitations.

Similarly, Dulude describes conducting an electronic transaction by having the user provide a user ID that was previously registered with Dulude's system. (See e.g., col.5 ll.57-62.) Thus, Dulude likewise requires the user to remember

a user ID *that is used only by Dulude's system*. Dulude likewise fails to disclose or suggest the above limitations.

Kawan describes having the user to both *insert a smart card* into a terminal and *enter a PIN* into a keypad to initiate a transaction. (See, e.g., col.2 11.10-15). Thus, Kawan requires the user to remember a PIN *that is used only by Kawan's system* and requires the user *to remember to carry a smart card*. Kawan therefore also does not disclose or suggest the limitations set out above.

Shinn describes authenticating a user-provided a biometric sample by having the user first *insert a smart card* into a reader device. (See, e.g., col.6 11.58-63). Shinn thus does not allow the user to enter a *credit card number associated with the user*, whether specific to Shinn's system or not, and requires the user *to remember to carry a smart card*. Therefore, Shinn also fails to disclose or suggest the above limitations.

Johnson describes carrying out a transaction by having the user *insert an ID card* into a reader and then place a finger in a fingerprint reader. (See, e.g., col.1 11.8-13 and col.10 11.3-13.) Johnson thus requires that the user *must remember to carry the ID card* and requires an *ID card that is only suitable for Johnson's system*. Johnson similarly does not disclose or suggest any of the above claim limitations.

Gerety is concerned with storing biometric data in a system memory and does not describe a financial transaction. Clearly, Gerety does not relate to the above limitations.

Therefore, neither Pare, Dulude, Kawan, Johnson, Shinn, nor Gerety, *whether taken alone or in combination*, discloses or suggests the acquiring step of claim 1 that is set out above. Moreover, because none of the cited references discloses or suggests this limitation, the references *whether taken alone or in combination*, also do not disclose or suggest:

generating, using a biometric device and in association with said acquiring of said credit card number and said personal information, a unique identification trait associated with said person[.] (Emphasis added.)

The Examiner, in addition to merely restating the arguments set out in the prior Office Action, also incorrectly asserts that "Applicants argue the deficiencies of each item of evidence when viewed in a vacuum rather than what the references taken collectively would have suggested to those skilled in the art." However, the Applicants have not merely argued the deficiencies of each reference "in a vacuum". Rather, by pointing out what is lacking in each of the references, the Applicants have shown that *none of the cited references* discloses or suggests "acquiring ... a credit card number associated with said person ..., said credit card number being the sole financial information acquired to complete said transaction" and that *none of the cited references* discloses or suggests "said credit card number ... being acquired without reading out the credit card number from a storage area of a card associated with the credit card number". Therefore, the asserted combination of these references likewise fails to disclose or suggest these limitations, and for at least the same reasons, the Examiner has failed to establish *prima facie* obviousness. M.P.E.P. §§ 706.02(j), 2142, 2143 and 2143.03.

Claims 2, 5, 10, 12, 14 and 109 each depend from claim 1, and therefore each is distinguishable over the cited art for at least the same reasons.

Independent claim 8 includes limitations similar to those set out above regarding claim 1. Claim 8 is therefore patentably distinguishable over the cited references for at least the same reasons.

Claim 9 and 110 depend from claim 8, and, for at least the same reasons, are distinguishable over the cited art.

Independent claim 111 is directed to a communications device having means for carrying out each of the process steps defined in claim 1. Claim 111 is therefore patentably distinguishable over the cited references at least for the same reasons.

Claims 112-113 and 118-121 depend from claim 111. For at least the same reasons, each of claims 112-113 and 118-121 is distinguishable over the cited art.

Independent claim 116 defines a communication device having means for carrying out each of the steps defined in claim 8. Therefore, claim 116 is patentably distinguishable over the cited references at least for the same reasons.

Claims 117 and 122 depend from claim 116 and, for at least the same reasons, are patentably distinguishable over the cited art.

Independent claim 123 defines a communication device having an input device and a biometric device which include limitations similar to those set out above in connection with claim 1. Claim 123 is therefore patentably distinguishable over the cited references for at least the same reasons.

Accordingly, Applicants respectfully request that the Examiner withdraw the rejection under 35 U.S.C. § 103 and allow all pending claims.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, Applicants respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to address the Examiner's concerns and overcome any additional objections which the Examiner might have.

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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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